

REQUEST FOR COUNCIL ACTION

MEETING

F

DATE: 11-17-03

AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. E-3
M DESCRIPTION: Type III, Phase III Conditional Use Permit #03-51 by Assisi Heights Animal Hospital. The applicant is proposing to change the use of the MLS Real Estate office, a non-conforming use to Assisi Heights Animal Hospital, a non-conforming use. The property is located on the northwest corner of 11 th Avenue NW and 14 th Street NW.		PREPARED BY: Theresa Fogarty, Planner

November 12, 2003

REVISED

City Planning and Zoning Commission Recommendation:

On October 22, 2003 the City Planning and Zoning Commission reviewed this request.

Mr. Haeussinger moved to recommend approval of Type III, Phase III Conditional Use Permit #03-51 by the Assisi Heights Animal Hospital with the staff-recommended findings. Mr. Dockter seconded the motion. The motion carried 7-0.

1. *Execution of a Pedestrian Facilities Agreement is required to address the Owner's obligations regarding the future construction of pedestrian facilities along the frontage of 11th Avenue NW.*

Planning Staff Recommendation:

See attached staff report dated October 16, 2003.

Council Action Needed:

1. If the Council wishes to proceed, it should instruct the City Attorney to prepare a resolution either approving, approving with conditions, or denying this request based on the criteria of Paragraphs 61.146 and 65.330.

Attachments:

1. Staff Report dated October 16, 2003.
2. Minutes of the October 22, 2003 CPZC Meeting.

Distribution:

1. City Clerk
2. City Administrator
3. City Attorney
4. Planning Department File
5. Applicant: This item will be considered some time after 7:00 p.m. on November 17, 2003 in the Council / Board Chambers in the Government Center at 151 4th Street SE.

COUNCIL ACTION: Motion by: _____ Second by: _____ to: _____



ROCHESTER

Minnesota



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TO: City Planning & Zoning Commission

FROM: Theresa Fogarty, Planner

DATE: October 16, 2003

RE: Type III, Phase III Conditional Use Permit #03-51 by Assisi Heights Animal Hospital. The applicant is proposing to change the use of the MLS Real Estate office, a non-conforming use, to Assisi Heights Animal Hospital, a non-conforming use. The property is located on the northwest corner of 11th Avenue NW and 14th Street NW.

JUDY SCHERR, CMC

City Clerk

201 4th Street SE, Room 135

Rochester, MN 55904-3742

(507) 285-8086

FAX #(507) 285-8256

Planning Department Review

Applicant:

Assisi Heights Animal Hospital
1111 NW 14th Street
Rochester, MN 55901

David R. Marris
Edina Realty
1301 Salem Road SW
Rochester, MN 55902

Property Location and Size:

The property is 20,550 square feet in size, with 1,410 square feet of building area and is located on the northwest corner of 11th Avenue NW and 14th Street NW.

Zoning:

The property is zoned R-1 (Mixed Single Family) on the City of Rochester Zoning Map.

Adjacent Land Use:

North: The property to the north is the rear yard of a single family dwelling, located within the plat known as Bielenberg & Giese First, zoned R-1 (Mixed Single Family).

West: The property to the west is a bituminous parking lot for St. Pius Church, zoned R-1 (Mixed Single Family).

Adjacent Land Use (Continued):

South: The property to the south is platted as Goodings Addition, zoned R-1 (Mixed Single Family) and developed with single family homes.

East: The property to the east is the open space area for Assisi Heights Convent, zoned R-1 (Mixed Single Family).

Utilities:

Utilities already exist on the site.

Summary of Proposal:

The applicant is proposing change the use of the existing building from a real estate office (non-conforming use) to an animal hospital (non-conforming use).

Service would be limited to the care and treatment of small animals and no boarding services would be provided.

The staff would consist of one full time veterinarian and two full time support staff. Anticipated business hours are 8:00 am to 5:30 pm, Monday through Friday. The hospital may open on Saturdays or Sundays for emergencies.

There are no exterior changes to building proposed, with the exception of lighting changes. The applicant is proposing to add additional landscaping on the site.

Access to the property is from 14th Street NW and 11th Avenue NW.

A total of 18 parking stalls will be provided.

Referral Agency Comments:

Rochester Public Works Department

Attachments:

Copy of Site Plan
Location Map
Referral Comments (1 letter)

Explanation of Application and Review Procedures:

Any nonconforming use of land or structure may be changed to another nonconforming use of the same nature or less intensive nature if no structural alterations are involved. The review of a conditional use is necessary to insure that allowing another nonconforming use will not be detrimental to surrounding property and is such that adverse effects on the occupants and neighboring property will not be greater than if the original non-conforming use continued. Such factors that shall be considered in making the determination on the permit shall include:

- 1) The character and history of the use and of development in the surrounding area.

In 1970 the property use was a gas station. The use changed in 1980 to a real estate office.

- 2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line.

The change in use from a real estate office to an animal hospital will not increase any of the above.

- 3) The comparative numbers and kinds of vehicular trips to site.

The proposed use will generate the same amount of traffic, if not less.

- 4) The comparative amount and nature of outside storage, loading and parking.

The proposed use will generate the same amount of storage, loading and parking, if not less.

- 5) The comparative visual appearance.

There are no structural alterations proposed to the exterior of the building, the visual appearance will remain the same.

- 6) The comparative hours of operation.

The hours of operation for the animal hospital remain the same as the existing real estate office.

- 7) The comparative effect on existing vegetation.

The applicant is proposing to provide additional landscaping, which will benefit the appearance and existence of additional vegetation.

- 8) The comparative effect on water drainage.

There is no grading and/or new sewer & water service connections proposed for the change in use. No Grading Plan approval or Development Charges are applicable.

- 9) Other factors which tend to reduce conflicts of incompatibility with the character or needs of the area.

Pedestrian Facilities are required along the frontage of 11th Avenue NW. The Owner shall be obligated to provide the pedestrian facilities with the execution of a Pedestrian Facilities Agreement.

This application proposes to change a nonconforming use (real estate office) with another non-conforming use (veterinary hospital). This request must be reviewed through the Type III review procedure with a Phase III hearing process and is required as a precondition to the issuance of a zoning certificate.

STAFF ANALYSIS:

In reviewing a Type III request the zoning administrator, Commission, or Council shall approve a development permit authorizing a conditional use unless or more of the following findings with respect to the proposed development is made (Section 61.146):

Provisions for vehicular loading, unloading, parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create hazards to safety, or will impose a significant burden upon public facilities.

The intensity, location, operation, or height of proposed buildings and structures will be detrimental to other private development in the neighborhood or will impose undue burdens on the sewers, sanitary and storm drains, water or similar public facilities.

The provisions for on-site bufferyards and landscaping does not provide adequate protection to neighboring properties from detrimental features of the development.

The site plan fails to provide for the soil erosion and drainage problems that may be created by the development.

The provisions for exterior lighting create undue hazards to motorists traveling on adjacent public streets or are inadequate for the safety of occupants or users of the site or such provisions damage the value and diminish the usability of adjacent properties.

The proposed development will create undue fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles.

In cases where Phase I plan has been approved, there is a substantial change in the Phase II site plan from the approved Phase I site plan, such that the revised plans will not meet the standards provided by this paragraph.

The proposed conditional use does not comply with all the standards applying to permitted uses within the underlying district, or with standards specifically applicable to the type of conditional use under consideration, or with specific ordinance standards dealing with matters such as signs which are a part of the proposed development, and a variance to allow such deviation has not been secured by the applicant.

STAFF RECOMMENDATION:

Staff has reviewed this request in accordance with the provisions of Paragraph 61.146 and Paragraph 65.330 of the Rochester Land Development Manual and is of the opinion that none of the above mentioned findings could be made to warrant denial of the application. Therefore, staff recommends approval subject to the following conditions or modifications:

- 1. Execution of a Pedestrian Facilities Agreement is required to address the Owner's obligations regarding the future construction of pedestrian facilities along the frontage of 11th Avenue NW.***

NOTE:

Since there is no grading and/or sewer & water service connections proposed for this change in use, no Grading Plan approval or development charges are applicable.